

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.THANKAPPAN

TUESDAY, THE 11TH SEPTEMBER 2007 / 20TH BHADRA 1929

Crl.L.P.No. 646 of 2007(C)

CC.308/1992 of ADDITIONAL CHIEF JUDICIAL MAGISTRATE'S COURT,
ERNAKULAM

PETITIONER/COMPLAINANT:

VELAYUDHAN, SON OF KRISHNAN
KIZHIPPIILLY, MATTAKUZHY KARA
PUTHENCROUZ VILLAGE, KUNNATHUNADU TALUK

BY ADV. SRI.T.D.ROBIN

RESPONDENTS: ACCUSED & STATE

1. V.P.THOMAS, ASST. SUB INSPECTOR OF POLICE,
PUTHENCROUZ POLICE STATION
2. MANI, P.C.2854, HEAD CONSTABLE,
PUTHENCROUZ POLICE STATION
3. CHANDI ALIAS THAMBI, P.C.6468,
-DO- -DO-
4. ALIAS, DRIVER OF POLICE STATION JEEP
-DO- -DO-
5. P.C.GEORGE
P.C.5525, -DO- -DO-
6. RAVI, P.C. 5553
-DO- -DO-
7. NARAYANAN, S/O. PAPPACHAN, KIZHUPPILLY, MATTAKUZHY KARA
THIRUVANIYOOR VILLAGE
8. ASHOKAN, SON OF KUNJAPPAN, KIZHUPPILLY, MATTAKUZHY KARA,
THIRUVANIYOOR VILLAGE
9. STATE OF KERALA

BY ADV. SRI.C.P.UDAYABHANU
PUBLIC PROSECUTOR SRI. THOMAS JOHN AMBOOKKAN -R9

THIS CRIMINAL LEAVE PETITION HAVING COME UP FOR ADMISSION
ON 11/09/2007, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

K.THANKAPPAN, J.

CRL. L.P. NO. 646 OF 2007

Dated this the 11th day of September, 2007

O R D E R

This petition for special leave to appeal is filed against the judgment in C.C. No.308 of 1992 on the file of the Additional Chief Judicial Magistrate's Court, Ernakulam.

2. The case of the petitioner- complainant was that on 30.3.1992 at about 6.30 p.m. while the complainant was going towards Thiruvankulam, accused Nos.2 to 5 who were police officers and another police constable forcibly took him to Puthencruiz Police Station and manhandled him at the instigation of accused Nos.7 and 8 who were his neighbours. To prove the case against the accused, the complainant himself was examined as PW.1 and nine other witnesses were examined as PWs.2 to 10 and Exts.P1 to P9 were produced. On the side of the defence, DW.1 was examined and Exts.D1 to D2(a) were produced. After closing the evidence of the complainant, the accused were questioned under Section 313 Cr.P.C. They denied the allegations levelled against them. After considering the

entire evidence, the trial court acquitted the accused, finding them not guilty.

3. According to the petitioner - complainant he was taken into custody by the police and manhandled on the basis of a petition filed by accused Nos.7 and 8. It is seen that the witnesses examined by the complainant could not prove the actual incident as alleged in the complaint. The trial court also relied on the evidence of PW.7, the Assistant Surgeon at Primary Health Centre, Vadavukode. He stated that he had treated the complainant. This witness further stated that the case put forward by the complainant was that he was taken from his house by accused Nos.7 and 8 and that they along with one Biju manhandled him. It is true that PW.7 was examined on the side of the complainant. PW.7 had also issued Ext.P2 wound certificate in which it is recorded that the complainant was manhandled by accused Nos.7 and 8.

4. After hearing the learned counsel appearing for the petitioner and perusing the records, this Court is of the view that unless and until there are compelling circumstances, this Court is reluctant to interfere with an order of acquittal. The incident had taken place in the year 1992. The petitioner had filed a revision against the acquittal of the accused. In

revision, the case was remanded for fresh consideration and after reconsideration, the order of acquittal was passed by the court below.

The Crl. Leave Petition is accordingly dismissed.

(K.THANKAPPAN, JUDGE)

sp/

K.THANKAPPAN, J.

CRL. L.P.NO.646/2007

O R D E R

11TH SEPTEMBER, 2007